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**DEC 22 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Dolina et al. :  
Application No. 09/674492 : DECISION ON PETITION  
Filed: 01/10/2001 :  
Atty Docket No. 1067/2 :

This is a decision on the petition filed on 31 July, 2006, under 37 CFR 1.137(b),<sup>1</sup> to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on 24 February, 2002, for failure to timely submit a timely reply to the non-final Office action mailed on 23 November, 2001, which set a three (3) month

<sup>1</sup> Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 July, 2002.

The petition lacks a proper statement of unintentional delay in accordance with 37 CFR 1.137(b)(3). The petition must include a statement that entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

It is recommended that petitioners complete the attached petition form, which includes a proper statement of unintentional delay, and submit it with a renewed petition.

The petition fee will be charged to counsel's deposit account, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail:            Mail Stop Petition  
                    Commissioner for Patents  
                    P.O. Box 1450  
                    Alexandria, VA 22313-1450

By FAX:            (571) 273-8300  
                    Attn: Office of Petitions

By hand:           Customer Service Window  
                    Mail Stop Petition  
                    Randolph Building  
                    401 Dulany Street  
                    Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

Encl:            PTO/SB/64